

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Richard P., by and for **R.P.**, and Denise L.,)
by and for **K.L.**,)
)
Plaintiffs)

V.

SCHOOL DISTRICT OF THE CITY OF ERIE, PENNSYLVANIA; JANET WOODS, Individually and in her Capacity as Principal of Strong Vincent High School; and **LINDA L. CAPPABIANCA**, Individually and in her Capacity as Assistant Principal of Strong Vincent High School,

Defendants

Civil Action No. 03-390 Erie

JURY TRIAL DEMANDED

MOTION FOR MODIFICATION OF ORDER SEALING RECORDS

Defendants The School District of the City of Erie, Pennsylvania, Janet M. Woods and Linda L. Cappabianca respectfully submit the following Motion for Leave to Disclose Documents Under Seal.

1. On September 12, 2005 plaintiffs filed Plaintiffs' Motion to Seal and Supplement Their Pretrial Statement, requesting that the Court permit them to file a supplement to their pretrial statement in the form of a report from an expert forensic psychologist and that the Court issue an order sealing that report "because it contains highly personal and confidential psychological information." Defendants indicated to plaintiffs before the motion was filed that they had no objection to the relief requested. On September 12, 2009 the Court issued an Order granting plaintiffs leave to file a supplement to their pretrial statement and sealing "Plaintiffs'

First Pretrial Statement." The Order continued, "The document shall only be available to the parties, their representatives, and court personnel."

2. On September 20, 2005 plaintiffs filed Plaintiffs' Motion to Clarify Order Sealing Records and, on the same date, the Court issued the following Order:

IN ERIE, this . . . 20th day of September, 2005,
based upon the foregoing, it is hereby Order[ed] that Plaintiffs are permitted to file the Supplement to Pretrial Statement which contains the report of Dr. Stephen Schachner and that supplement, which includes Dr. Schachner's report, shall be sealed and not available to anyone other than court personnel or the parties to this action. This document will remain under seal until further order of court.

3. Dr. Schachner's report is critical of services provided to plaintiffs by Sarah Reed Children's Center ("Sarah Reed"), which is not a party to this action, but whose services were provided at the request of defendant The School District of the City of Erie, Pennsylvania ("ESD").

4. Plaintiffs assert that ESD is liable for the services provided by Sarah Reed of which Dr. Schachner is critical.

5. While some of the facts set forth in Dr. Schachner's reports were not available to Sarah Reed at the times of its treatment of plaintiffs, Sarah Reed was and is in possession of all of the factual information on which Dr. Schachner bases his opinions concerning the adequacy of the services provided by Sarah Reed.

6. Defendants' ability to defend this action with respect to their alleged responsibility for the actions of Sarah Reed will be unfairly compromised without serving any legitimate interest in the confidentiality of the Dr. Schachner's reports unless they are able to

provide copies of Dr. Schachner's reports to representatives of Sarah Reed for review and comment.

7. Defendants' counsel requested that plaintiffs consent to the relief requested in this motion before the motion was filed and plaintiffs counsel indicated plaintiffs would not consent to the relief requested.

WHEREFORE, defendants The School District of the City of Erie, Pennsylvania, Janet M. Woods and Linda L. Cappabianca respectfully request that the Court issue an order modifying its Order of September 20, 2005 which sealed Plaintiffs' Supplemental Pretrial Statement, granting them leave to provide copies of the reports of Stephen P. Schachner, Ph.D. to representatives of Sarah Reed Children's Center for review and comment.

Respectfully submitted,

/s/ James T. Marnen

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Janet M. Woods and Linda L. Cappabianca

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SCHOOL DISTRICT OF THE CITY OF)
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WOODS, Individually and in her Capacity a)
Principal of Strong Vincent High School; anc)
LINDA L. CAPPABIANCA, Individually)
and in her Capacity as Assistant Principal of)
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 30th day of September, 2005, a copy of the within document was served on all counsel of record and unrepresented parties in accordance with the applicable rules of court.

/s/ James T. Marnen

James T. Marnen